



**MCI Telecommunications  
Corporation**

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Washington, DC 20006

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

August 31, 1998

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

**Re: In the Matter of Amendment of the Commission's Ex Parte Rules in Joint  
Board Proceedings; GC Docket No. 98-73**

Dear Ms. Salas:

Enclosed herewith for filing are the original and nine (9) copies of MCI Telecommunications Corporation's Reply Comments regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,

Henry Hultquist

Enclosure  
HGH

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of the Commission's Ex Parte	)	GC Docket No. 98-73
Rules in Joint Board Proceedings	)	
	)	
	)	

**REPLY COMMENTS OF MCI TELECOMMUNICATIONS**

MCI Telecommunications Corporation hereby submits these reply comments on the Commission's proposed revision to its ex parte rules.<sup>1</sup>

If adopted, the proposal would eliminate disclosure requirements for ex parte presentations from state commissioners or their staff, to the Commission or a Joint Board in Joint Board proceedings and proceedings involving a recommendation from a Joint Board, unless the presentation was "of substantial significance and clearly intended to affect the ultimate decision."<sup>2</sup> MCI appreciates the potential benefits from intra-jurisdictional cooperation on the critical issues that are subject to Joint Board recommendations. However, MCI must respectfully disagree with the Public Utilities Commission of the State of California over whether the proposed amendment would preserve the fairness of the proceedings at issue.<sup>3</sup> MCI does not believe that undisclosed

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<sup>1</sup>*Amendment of the Commission's Ex Parte Rules in Joint Board Proceedings*. Notice of Proposed Rulemaking, CC Docket No. 98-73, FCC 98-98 (released June 30, 1998).

<sup>2</sup>Notice at ¶ 7.

<sup>3</sup>Comments of the People of the State of California and the Public Utilities Commission of the State of California, page 2 (submitted August 13, 1998).

collaboration between the Commission and a particular group of parties, is consistent with neutral decision-making. As GTE suggests, instead of making rule changes to promote secrecy, the Commission could make greater use of alternative forums which are open to all parties.<sup>4</sup>

Another issue raised in GTE's comments is the absence of guidance in the Notice on the application of the standard. Although existing rules apply an identical standard to presentations by members of Congress, Congressional staff, and other agencies of the federal government and their staffs,<sup>5</sup> the extension of this standard to more than fifty additional bodies raises substantial unresolved questions. For example, at what point in time must the determination be made that a presentation is "substantially significant and clearly intended to influence the ultimate decision?" Also, who is responsible to make this determination, the Commission, the states, or both in consultation? Nor does the Notice address what happens when a series of independent presentations, cumulatively cross the "substantial significance" threshold. By dramatically expanding the number of parties covered by this permissive standard, the Commission would needlessly risk the fairness of its proceedings. Inevitably, other parties will be left to wonder whether a particular decision might have been different, had they had the opportunity to address issues raised in an undisclosed contact. The loss of fairness, or even only its appearance, is a high price to pay in order to save the states from the relatively insubstantial burden of complying with the Commission's existing ex parte rules.<sup>6</sup>

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<sup>4</sup>Comments of GTE, page 2 (submitted August 14, 1998).

<sup>5</sup>47 C.F.R. §§ 1.1203(a)(4), 1.1206(b)(3).

<sup>6</sup>Parties ordinarily file either a copy of handouts or a letter indicating that a meeting took place, as well as the topic of discussion. That federal actors to whom the standard now applies, appear to have continued to file ex parte notices for presentations of any significance at all, clearly

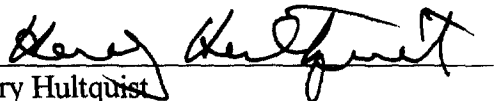
BellSouth correctly points out another deficiency in the proposed rule change. In some cases, a Joint Board or the Commission could rely on information in a presentation which did not cross the "substantial significance/clearly intended" threshold, at the time when it was made.<sup>7</sup>

MCI does not agree with BellSouth that this problem would be remedied by disclosure of factual information which is actually relied on, no later than the time when the decision is released. Such minimal disclosure would of course be necessary for a court that must review agency action, but it would do little to contribute to the fairness of the Commission's proceedings.

MCI encourages the Commission not to adopt the proposed change in its ex parte rules. The proposal would damage the fairness and integrity of the Commission's proceedings, with little corresponding benefit.

Respectfully submitted,

MCI TELECOMMUNICATIONS  
CORPORATION

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Date: August 31, 1998

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shows that the relaxed standard provides little benefit.

<sup>7</sup>BellSouth Comments, page 3 (submitted August 14, 1998)

## CERTIFICATE OF SERVICE

I, Vivian I. Lee, do hereby certify that copies of the foregoing Reply Comments were sent via first class mail, postage paid, to the following on this 31st day of August, 1998.

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\*HAND DELIVERED

  
Vivian I. Lee